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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/039,742	01/02/2002	William J. Ginder JR.	PATGINDER	1129

7590

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EXAMINER

GROSSO, HARRY A

ART UNIT	PAPER NUMBER
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3727

DATE MAILED: 03/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/039,742

Applicant(s)

GINDER, WILLIAM J. ED

Examiner

Harry A. Grosso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 January 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-35 is/are pending in the application.
- 4a) Of the above claim(s) 23-33 and 35 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-22 and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 June 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-22 and 34, drawn to a bucket having a turntable, classified in class 220, subclass 628.
 - II. Claims 23-33 and 35, drawn to an insert for use in a bucket, classified in class 220, subclass 528.
2. Inventions of Group I and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention of the bucket having a turntable has separate utility such as it can be used to hold items without the use of the insert. See MPEP § 806.05(d).
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.
4. During a telephone conversation with Ms. Cheryl Figlin on February 28, 2005 a provisional election was made with traverse to prosecute the invention of Group I, claims 1-22 and 34. Affirmation of this election must be made by applicant in replying to this Office action. Claims 23-33 and 35 withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Drawings

5. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the wheels attached to

the bottom of the turntable (claim 20) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Objections

6. Claims 6, 9 and 10 are objected to because of the following informalities: Claims 6, 9 and 10 do not end with a period and are, thus, not complete sentences. Appropriate correction is required.

Claim Rejections - 35 USC § 112

7. The following is a quotation of the first paragraph of 35 U.S.C. 112:

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The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

8. Claims 17-19 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims recite the bucket and turntable as being made as one unit or one piece. This is not possible since rotation of the bucket is required on the turntable and making them as one unit or one piece would not allow this function. Applicant does not provide information on how this is accomplished in the specification. No prior art has been cited against these claims since there is no prior art teaching something which can not be done.

9. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

10. Claims 8, 10 and 11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

11. Claim 8 recites the limitation "cushion bumpers" in line one of the claim. There is insufficient antecedent basis for this limitation in the claim.

12. Claim 10 recites the limitation "similar diameter and/or circumference to a five-gallon bucket." It is unclear whether either the diameter or circumference, or both the diameter and the circumference must be similar to that of a five -gallon bucket.

13. Claim 11 recites items contained in said bucket from a list of building, plumbing, gardening, cleaner agents, fishing, electrical or hunting. Other than cleaner agents, the terms in the list do not describe items but types of activities. For purposes of addressing this claim the Examiner will read it as reciting items for use in these activities.

Claim Rejections - 35 USC § 102

14. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

15. Claims 1, 3, 8, 13, 14 and 16 rejected under 35 U.S.C. 102(b) as being anticipated by Denholtz (4,305,511).

16. Denholtz discloses a container (10, Figure 1 & 3) which is a standard bucket for use with kitchen tools and thus is capable of supporting a weight in the range of 0 to 150 pounds. It has a lazy susan type of turntable attached (Figure 3 and column 3, lines 36-44), which allows 360° rotation in either direction. The device is made of plastic (column 2, line 7). The bucket is affixed to the turntable by a projection molded in the base of the bucket (69, Figure 3 and column 3, lines 40-46).

17. Claims 1, 8, 9, 10, 16, 20-22 and 34 rejected under 35 U.S.C. 102(b) as being anticipated by Stephan (5,472,220). Stephan discloses a turntable (1, Figure 1) that attaches to a five-gallon bucket (column 1, lines 12-14) and allows for controlled continuous 360° rotation of the bucket and is capable of supporting a weight in the

range of 0 to 150 pounds. Stephan further discloses that the turntable has four wheels or castors attached (11, Figures 1 and 3, column 3, line 32) to the base.

Claim Rejections - 35 USC § 103

18. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

19. Claims 2 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denholtz in view of Lindsay (4,993,551).

20. Regarding claim 2, Denholtz discloses the bucket of claim 1 but does not teach the use of a tool apron organizer. Lindsay discloses a tool apron organizer (Figure 1, column 5, lines 40-42) with a five gallon bucket to allow storage of a wide variety of tools both inside and outside of the bucket. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a tool apron organizer with a five gallon bucket as disclosed by Lindsay in the bucket disclosed by Denholtz to allow storage of a wide variety of tools both inside and outside of the bucket.

21. Regarding claim 11, Lindsay further discloses that the apron contains tools used for building (Figure 1). It would have been obvious to use the apron for building tools as disclosed by Lindsay to have these tools conveniently accessible.

22. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denholtz in view of Patterson (3,380,201). Denholtz discloses the bucket of claim 1 but

does not teach the use of bumpers on the base of the turntable. Patterson discloses a turntable device for tools (column 1, lines 55-57) with four bumpers made of rubber or plastic (18, Figures 1 and 3, and column 3, lines 11-13) in the base supporting the turntable to allow the device to be stably set on a counter or working surface and prevent sliding of the device. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of four bumpers made of rubber or plastic in the base of the turntable as disclosed by Patterson in the bucket disclosed by Denholtz to allow the bucket to be stably set on a counter or working surface and prevent sliding.

23. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Denholtz and Patterson as applied to claim 4 above, and further in view of Kieft (2,172,140). The combination of Denholtz and Patterson discloses the bucket of claim 4 but does not teach the added limitation of how the bumpers are attached to the base. Kieft discloses rubber bumpers that are bolted to a base (9,10, Figure 2 and lines 55-60) for ease and efficiency of mounting. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of rubber bumpers that are bolted to a base as disclosed by Kieft in the bucket disclosed by in claim 4 for ease and efficiency of mounting.

24. Claims 12 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Denholtz in view of Morris (4,432,151). Denholtz discloses the bucket of claim 1 but does not teach the use of a steel turntable with ball type bearings affixed with bolts. Morris discloses a device mounted on a steel turntable with ball type bearings that is

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affixed using bolts (Figure 3 and column 3, lines 51-57) to provide adequate support and allow free rotation. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have incorporated the use of a steel turntable with ball type bearings that is affixed using bolts as disclosed by Morris in the bucket disclosed by Denholtz to provide adequate support and allow free rotation.

Conclusion

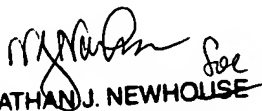
25. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fleming (5,174,447), Wan (D279,950), Taguchi (4,620,685) and John (5,535,684).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Harry A. Grosso whose telephone number is 571-272-4539. The examiner can normally be reached on Monday through Thursday and alternate Fridays from 7am to 4 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lee Young can be reached on 571-272-4549. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


NATHAN J. NEWHOUSE
PRIMARY EXAMINER
3/7/05

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